IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1362 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CENTRAL WORKSHOP

Versus

JARNAIL SINGH DEVASINGH RAMGADIA

Appearance:

1. Special Civil Application No. 1362 of 2000

MR NAGESH C SOOD for Petitioner No. 1

SERVED BY AFFIX.-(R) for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 10/07/2001

ORAL JUDGEMENT

The Gujarat State Road Transport Corporation (hereinafter referred to as the "GSRTC") has filed the present petition challenging the award passed by the

Labour Court, Ahmedabad, in Reference (LCA) No.286 of 1997 dated 29.10.1999. By the award in question, the Labour Court was pleased to order reinstatement of the respondent-workman on his original post without back-wages and ordered stoppage of one increment without future effect.

2. The Court issued notice in Special Civil Application on 8.3.2000 making it returnable on 3.4.2000. It is stated by Mr Sood, learned advocate for the petitioner-corporation that as no stay was granted in his favour, the reinstatement part of the award was complied with and the respondent-workman was reinstated on 31.8.2000. This Court passed an order on 2.12.2000 to the effect, "Meanwhile, the award of the Labour Court at Annexure-A is stayed on the condition that the petitioner shall comply with the provisions of Section 17-B of the I.D. Act from the date of the award of the Labour Court. The respondent-workman may file appropriate affidavit whether he is gainfully employed or not before this Court." When the matter is taken up for hearing, Mr Vaishnav, learned advocate for the respondent-workman, pointed out that the respondent-workman had worked with the petitioner-corporation for 16 long years as machinist in coach manufacturing department. He also pointed out that, earlier an order of dismissal was passed by the petitioner-corporation on 29.2.1994 but as a general Reference Case No.570 of 1992 was pending, the petitioner-corporation had filed Approval Application NO.1 of 1994 but, the same was rejected on 30.6.1994 and thereafter the respondent-workman was reinstated in service with full back-wages. But thereafter in connection with earlier dismissal order dated 29.2.1994 the petitioner-corporation passed another order of dismissal i.e. 2.1.1995 and that is the subject matter of the present proceedings.

3 The petitioner-corporation had also filed Approval Application No.4 of 1995 before passing the order of dismissal. The said application was granted without prejudice to the right of the respondent-workman for reinstatement. Mr Vaishnav, learned advocate for the respondent-workman, pointed out that the Labour Court after detailed discussion came to the conclusion that the punishment imposed on the respondent-workman is disproportionate inasmuch as what was alleged against the respondent-workman was theft of 17 pieces of terminal code brackets i.e. scrap battery terminals which valued Rs.93 and for that the punishment of economic death imposed by the petitioner-corporation was not found to be appropriate by the Labour Court. Mr Vaishnav therefore

submitted that the judgement and award of the learned Judge of the Labour Court does not warrant any interference at the hands of this Court and the petition may be dismissed.

4 Mr Sood, learned advocate for the petitioner-corporation, submitted that when the Labour Court has come to the conclusion that the charge levelled against the respondent-workman is proved, then, the amount involved is immaterial and therefore the judgement and award of the Labour Court should be quashed and set aside the the order of dismissal is required to be upheld. Mr Sood submitted that an offence of theft is a serious offence and no leniency should have been shown by the Labour Court.

5 Mr Vaishnav, learned advocate for the respondent-workman, submitted that the Labour Court has relied upon the judgement of Karnataka High Court in the matter of Shashi Kumar v. Management of India Telephone Industries reported in 1999 (1) LLJ 226 wherein it is laid down that if the Labour Court is of the opinion that the punishment imposed is excessive, the Labour Court can always interfere with the order of punishment under the provisions of Section 11A of the Industrial Disputes Act. He further submitted that the Labour Court has rightly exercised its discretion and has ordered reinstatement without back wages and the denial of back-wages from the date of dismissal of the respondent-workman till the date of reinstatement is more than sufficient punishment for the offence which is alleged against the respondent-workman. Therefore, the award of the Labour Court may not be interfered. Mr Sood, learned advocate for the petitioner-corporation, on the other hand submitted that imposition of stoppage of one increment will not have any effect more particularly, when it is imposed without future effect.

6 Taking into consideration the submissions of both the sides and taking into consideration the offence alleged against the respondent-workman was proved the punishment imposed by the Labour Court is not sufficient and to see that the punishment, which is proposed to be imposed shall have some deterrent effect. Mr Sood, learned advocate for the petitioner-corporation, was asked to enquire as to whether after reinstatement of the respondent-workman i.e. in the month of August 2000 whether there is any other incident reported against the respondent-workman. Mr Sood has submitted that he has received instructions that no such incident is reported against the respondent-workman. In view of that, the

present petition is partly allowed. The award of the Labour Court is modified. Reinstatement without back wages is upheld. Punishment of stoppage of one increment without future effect is substituted by stoppage of three increments without future effect. Rule is made absolute to the aforesaid extent.

7 Mr Vaishnav, learned advocate for the respondent-workman, submits that the respondent-workman is not paid back-wages from the date of the award till reinstatement. The petitioner-corporation shall pay the amount of back wages, if not paid already, to the respondent-workman within six weeks.

(Ravi R Tripathi, J.)
(mohd)